

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MOHAMMED T. KANN,)	
)	
Petitioner,)	
)	
v.)	Case No. 18-cv-12638-ADB
)	
ANTONE MONIZ, Superintendent of Plymouth)	
County Correctional Facility,)	
)	
Respondent.)	

RESPONDENT'S STATUS REPORT

Respondent, Antone Moniz, Superintendent of Plymouth County Correctional Facility, by his attorney, Andrew E. Lelling, United States Attorney for the District of Massachusetts, submits this Status Report pursuant to the Court's Order of April 10, 2019 (ECF No. 29). Additionally, the United States submits a Third Declaration of David Scarberry, Detention and Deportation Officer, United States Department of Homeland Security, Immigration and Customs Enforcement ("ICE").

On February 22, 2019, Respondent filed a Motion to Dismiss, advising the Court that there was a significant likelihood of Respondent's removal in the reasonably foreseeable future, for the reason that ICE anticipated that an in-person interview would be scheduled with the Liberian embassy within the 30 days. (ECF 12, 15). The Court held the Respondent's Motion in abeyance until April 10, 2019 and ordered that he file a status report on that date. (ECF 22). Respondent filed a report, and reported during that it had been communicating with Liberia about obtaining travel documents. The Court again held the Respondent's motion in abeyance and ordered that an updated Status Report be filed. Respondent reports the following, based upon the Third Declaration of David Scarberry, Detention and Deportation Officer, U.S.

Department of Homeland Security, Immigration and Customs Enforcement (“ICE”), filed simultaneously with this report:

- On March 27, 2019, Respondent was interviewed by the Liberian embassy. During the interview, Respondent states that he came to the United States from Guinea and currently has family living in Guinea, *See*, Scarberry Dec. ¶ 7;
- On April 1, 2019, ICE submitted a travel document request for Petitioner to the Embassy of Guinea, *See*, Scarberry Dec. ¶ 8;
- Additional identity documentation was presented to the Guinean Embassy including copies of a valid Guinean passport Petitioner used to enter the United States on or about September 5, 1992, *See*, Scarberry Dec. ¶ 9;
- On April 11, 2019, the Liberian Embassy advised ICE that it would not be able to issue a travel document since Petitioner was admitted to the United States as a Guinean national, *See*, Scarberry Dec. ¶ 10;
- ICE met with the Guinean Embassy on May 8, 2019. The Guinean Embassy issued three travel documents for other individuals on May 10, 2019, but Kann was not among these individuals. The Guinean Embassy advised ICE that it would be in a position to issue a decision regarding Kann as early as Tuesday, May 14, 2019. ICE intends to contact the Guinean Embassy on May 14, 2019, to determine if a decision has been reached. *See*, Scarberry Dec. ¶ 11.

Because the Guinean Embassy has not refused to issue a travel document, and because ICE expects to receive an answer as early as Tuesday, May 14, 2019, there is a significant likelihood that the Petitioner will be removed in the reasonably foreseeable future. As noted in its Motion to Dismiss, Petitioner has a criminal history and recently served a four to five year sentence of incarceration; he was transferred to ICE only after he had served this sentence. *See*, *Declaration of David Scarberry*, ¶¶ 7, 8 (ECF 16-1).

Given the current status of Petitioner's removal, the fact that the Guinean Embassy did not deny ICE's request for travel documents, and Petitioner's criminal history, Respondent strongly urges the Court either to grant the Motion to Dismiss, or, in the alternative, order an additional time period in which to hold it in abeyance.

ANDREW E. LELLING
United States Attorney

By /s/ Susan M. Poswistilo
SUSAN M. POSWISTILO, BBO 565581
Assistant U.S. Attorney
John Joseph Moakley U.S. Courthouse
One Courthouse Way, Ste. 9200
Boston, MA 02210
(617) 748-3103
susan.poswistilo@usdoj.gov

CERTIFICATE OF SERVICE

I certify that this document will have been served upon Petitioner, Mohammed T. Kann, by U.S. mail addressed to Mohammed Kann, Bristol County House of Correction, 400 Faunce Corner Road, North Dartmouth, MA 02747

/s/ Susan M. Poswistilo
Assistant United States Attorney

Date: May 10, 2019